

*TOWN OF FOXBOROUGH*  
SELECTMEN'S MEETING  
MINUTES  
November 12, 2013

Members Present: Mark Sullivan, Chairman  
Lorraine Brue, Vice Chairman  
John Gray, Clerk  
Ginny Coppola  
James DeVellis

Others Present: Acting Town Manager Bob Cutler  
Special Town Counsel David DeLuca  
Sgt. Richard Noonan of the Foxboro Police Department  
Atty. Steven Miller and Manager James Nolan of Gillette Stadium  
Skipjack's General Manager Peter Dowd  
William and Patricia Martin, co-owners of Tastings Wine Bar and Bistro  
Stephen Champagne Manager of the Foxboro Country Club  
Finance Director Randy Scollins  
Members of the School Committee and the Advisory Committee  
Phil Buttafuccho of Gillette Stadium  
Rich Pearson Associate Director of the MIAA  
Mike Ashapa of the Stadium Advisory Committee

The meeting was brought to order at 7:00 p.m. by Mark Sullivan, Chairman. Chairman Sullivan reviewed the agenda.

**Citizen's Input**

Ellen Garber of Tara Ann Drive wanted to read a statement on behalf of a group of concerned residents in regards to the recent Splitsville decision. There were approximately 25 other residents in attendance. Ms. Garber stated that they have a petition going around town and already have over 200 signatures. The statement requests that the Board reconsider the decision to deny the application of Splitsville for the transfer of the liquor license from the Dana Farber Field House based on the fact that they are proposing to put \$4.5 million into the location, are a well respected family business with operations throughout the US, the Police Chief has mitigated a Public Safety plan that the Kraft Organization has agreed too and that public input was 100% in favor of the application.

Larry Thomas of 6 Norton Street stated that he was pleased with the Board's vote to deny the Splitsville application. He feels that there is confusion in the community and that the Board voted against another large scale bar. Ms. Brue had mentioned the 24J reports which are reports generated by OUI court cases. The operators are asked where they had their last drink and this report stated that 38 operators said Foxboro. He feels that the Board was not being anti-business, the town took in a stadium that Boston and Providence didn't want and they also petitioned the legislature for additional liquor licenses. The Board has been very accommodating. Mr. Thomas feels that the highest priority should be the development of downtown but the Board never has time to talk about that because 30% of the time the agendas contain alcohol related issues.

**Public Hearing – Alleged Liquor License Violation – Gillette Stadium, One Patriot Place, James Nolan Manager**

Mr. Gray read the Public Hearing notice.

Atty. DeLuca stated that he has reviewed the reports with input from Mr. Cutler and Chief O'Leary for all of the violation hearing to be held this evening. The Board has not seen the allegations before this evening. Atty. DeLuca met with the license holders in advance of the hearings and the license holders are present to answer any questions the Board may have.

Atty. Steven Miller and James Nolan were present to represent the Stadium. They are not disputing the facts of the violation and feel there is no need for a contested hearing.

Sgt. Richard Noonan of the Foxboro Police Department reviewed the facts of this case. During the August 16<sup>th</sup> preseason Patriots game one of the officers on detail duty was notified by a patron that a beer hawker had sold beer to two underage females. The two 18 year-old females admitted to purchasing the beer and the hawker admitted that he knew they were underage but gave them the beers anyway as he knew both of the females. Mr. Nolan stated that the hawker was immediately fired and will be charged in court for serving an underage minor.

Atty. Miller stated that the Board is familiar with the security procedures at the stadium as they were recently reviewed and he also noted that there is a PSA at the stadium with a number to call if a patron sees anything. That is how this report originated. They are not disputing the facts; the hawker knew the girls, looked at their ID's and still served them. He was a three year employee who knew the proper procedures.

Mr. Nolan distributed the security procedures used by the stadium as well as the Certification Card of the hawker showing he was certified until September 2014. Mr. Nolan also showed where the hawker had signed a copy of the alcohol service policy that day too.

Mr. Nolan stated that in addition to the security procedures that were already in place, they added an ID check matching machine at the recommendation of Chief O'Leary and the ABCC so any questionable ID's could be checked. If it was found to be valid, a wristband is given to the patron.

Mr. Nolan stated that they asked the ABCC to conduct a review of the hawkers program; this was done recently at the Countryfest both undercover and up front and their findings were that it is an excellent program.

Safe serving is very important to them as well as the designated driver program. Mr. Nolan stated that he has been the Manager since 2003 and has no violations on file. They have served over 15 million people and ask that their track record be taken into consideration. Mr. Nolan humbly requests that a No Finding decision be made this evening.

Atty. DeLuca stated that he recommends a written reprimand and a finding to remain in their file.

Mr. Gray asked what happens if they recommend no finding. Atty. DeLuca stated that there would be no records if any subsequent violation hearings ever need to be held. This needs to be taken on a case-by-case basis.

Ms. Brue read the sanctions that the Board revised in the past few years. Even though they do have an excellent track record, a careful decision needs to be made.

Mr. Coppola noted that the sanctions state that a letter of reprimand and a suspension of up to three days can be imposed. She is not recommending a suspension at this time.

Mr. DeVellis stated that a lot of the Board's time is taken up with alcohol issues. He cannot support a No Finding decision but is agreeable to a letter or reprimand.

There were no public comments.

A motion to close the Public Hearing was made by Mr. Gray and seconded by Ms. Brue. The motion carried 5-0-0.

Mr. Sullivan stated that the Board needs to focus on what the license holder did or did not do; this license holder did everything they could and the employee blatantly violated their rules and broke the law.

Mr. Nolan stated that the employee was fired and a letter of disinvite was mailed to him, he will be arrested for trespassing if he is ever found on the property again. Atty. Miller noted that the stadium has a zero tolerance policy.

Mr. Sullivan noted that last year a similar establishment received a letter of reprimand for their offense.

Ms. Brue noted that the previous three first offense hearings all had some sort of a suspension along with a letter of reprimand.

Mr. Sullivan noted that Showcase Live last year was asked not to file an appeal from the results of their hearing and asked if that could be a condition. They agreed not to appeal any decision of the Board.

A motion that the Board finds that there was a sale of alcohol to two underage patrons at Gillette Stadium at 1 Patriots Place in accordance with the police report that was submitted this evening was made by Ms. Brue and seconded by Mr. Gray. The motion carried 5-0-0.

A motion to issue a letter of reprimand to Gillette Stadium Management in regards to the sale of liquor to two minors with an agreement that there be no appeal was made by Mr. Gray and seconded by Ms. Brue. The motion carried 5-0-0.

### **Public Hearing – Alleged Liquor Licenses Violation - Skipjack's, 226 Patriot Place, Manager Peter Dowd**

Mr. Gray read the Public Hearing notice. General Manager Peter Dowd was present to represent the establishment.

Sgt. Richard Noonan reviewed the facts of the case. During an alcohol compliance check on September 26, 2013 an underage operative for the Foxboro Police Department went to the bar and ordered a beer, the bartender asked for his identification, looked at it and then gave him the beer which the operative then paid for.

Mr. Dowd stated that they do not contest the facts and that a grave mistake was made and the employee in question has been terminated. The manager on duty that evening had observed the transaction but figured it must be okay as an ID was presented. The employees at Skipjack's are TIPS certified every two years. He also stated that he has been a manager of Skipjack's for twenty eight years and this is only the second violation he has had during that time.

Ms. Brue asked if ID's are checked at the door. Mr. Dowd stated that they are on event days and game days and that no out of stated ID's are taken.

Mr. Gray noted that an Under 21 License is vertical not horizontal and states Under 21 right on it.

Mr. DeVellis asked if they have considered installing a scanner. Mr. Dowd stated that they are quite expensive and if they have a question on the authenticity of an ID, they use Bar Louie's scanner next door.

There were no public comments.

A motion to close the Public Hearing was made by Mr. Gray and seconded by Ms. Brue. The motion carried 5-0-0.

Mr. Sullivan asked if the requirement of a scanner could be included as a sanction. Atty. DeLuca stated that it is not in the parameter of the sanctions that could be imposed.

A motion that the Board finds that there was a sale of alcohol to an underage patron at Skipjack's on September 26, 2013 was made by Ms. Brue and seconded by Mr. Gray. The motion carried 5-0-0.

Atty. DeLuca stated that this establishment has no prior violations on record and recommends a letter of reprimand be placed in their file.

Mr. DeVellis stated that he was leaning more towards a one day suspension as the establishment offered no steps to be taken to be sure that this doesn't happen again.

Brian Early, General Manager of Patriot's Place stated that all establishments at Patriot's Place are required to have alcohol awareness training and it is taken very seriously.

A motion to issue a letter of reprimand to Skipjack's for the liquor license violation that occurred on September 26, 2013 was made by Mr. Gray and seconded by Ms. Brue.

Mr. DeVellis stated that the Board is constantly dealing with the liquor license holders in town and the establishments were all notified that compliance checks would be coming and he would like to see a one day suspension during a weekday.

Ms. Brue stated that it is important to consider the track record of the establishment; in twenty-eight years this is only their second violation. Human error was involved in this mistake as the bartender wasn't paying attention. There was no suspension in the previous hearing and that violation was deliberate.

Ms. Coppola stated that she agrees with Mr. DeVellis and notice was given that compliance checks would be performed.

Mr. Gray asked the cost of a scanner. It would be approximately \$3,000.

Mr. Dowd stated that his boss is out of town and could not attend this evening but he is investigating the purchase of a scanner. He also stated that the employee was immediately removed and he is confident that there will be no other offenses.

The Board voted on the previous motion, the motion carried 3-2-0 with Mr. DeVellis and Ms. Coppola opposed.

Resident Stephanie McGowan of Rhodes Lane stated that the public has been hearing a lot of different numbers from a 24J report; it stated that 38 drunken driving offenders stated that they were coming from Foxboro. She would like to know where they were coming from, Pats games, restaurants, bars, etc. She would like to see an investigation into the real meaning of the numbers.

**Public Hearing – Alleged Liquor License Violation – Tastings Wine Bar and Bistro, 201 Patriot's Place, Manager William Martin.**

Mr. Gray read the Public Hearing notice.

This hearing will be continued so that the Board can conduct other business.

**Action Items**

An application for a One Day Beer and Wine License has been received from Val Swartz of Life is Good.

Ms. Swartz was present and explained that they would like a one day license for their grand opening on November 21, 2013 from 7:00 p.m. – 10:00 p.m. They will have licensed pourers and will be checking ID's.

A motion to grant a One Day Beer and Wine License to Life is Good on November 21, 2013 from 7:00 p.m. – 10:00 p.m. was made by Mr. Gray and seconded by Ms. Brue. The motion carried 5-0-0.

**Chairman's Update**

Mr. Sullivan stated a discussion on the Splitsville Liquor License will be placed on a future agenda.

Mr. DeVellis wanted to inform the Board and the townspeople of a program that is starting this year for the Veteran's of Foxboro and Mansfield. During the annual Thanksgiving Day Football game the veteran's and their families of both towns will be invited to attend the game for free. Sideline passes will be given out as well as a coupon for a free turkey. This is to thank the veteran's for their service and is not a charity; this is also a way to connect the kids of the towns with their veterans. A group picture will also be taken. This is a program started by the Touchdown Club of Foxboro and the Gridiron Club of Mansfield. Any veteran who would like

tickets to the Thanksgiving Day game can call either Mr. DeVellis or Veteran's Agent Mike Johns to be put on the list.

**Continued Public Hearing – Alleged Liquor License Violation – Tastings Wine Bar and Bistro, 201 Patriot's Place, Manager William Martin.**

William and Patricia Martin, co-owners of Tastings were present.

Sgt. Noonan reviewed the facts of the case. An underage operative entered the establishment on September 26, 2013 and took a seat at the bar and ordered a beer. The bartender asked for his identification, looked at it and gave him the beer. The operative then paid for the beer.

Mr. Martin submitted a letter to the Board in regards to this incident. He is mortified that this happened. The employee was given a three day suspension without pay. He reviewed the process changes that have been made at his establishment since this incident which include TIPS re-certification, daily reminders, acknowledgement of all employees that they have read the Rules and Regulations of Alcoholic Beverage Licenses in the Town of Foxboro, the purchase of an updated ID Checking Guide and a daily reminder calendar, a revised policy for private functions, the modification of their Employee Manual and the instituting of a process for the Manager of the Day to document any incidents relating to alcohol service.

The bartender on duty that day miscalculated the age of the operative.

Mr. Gray asked how many liquor serving employees are on their staff. Mr. Martin stated that they have four staff members and two bartenders.

Ms. Brue asked if all staff members were retrained. Mr. Martin stated that they were and it will be done every two years instead of the required three.

Ms. Coppola noted that an underage license is vertical not horizontal. Mr. Martin stated that some over the age of 21 still have that license until it is up for renewal. She also wanted to know why the server was not fired. Mr. Martin stated that she acknowledged her mistake so she was suspended for a weekend. She is a member of the military and they felt she deserved a second chance.

Mr. DeVellis stated that he knows the Martins through charity work in town but would still like to see a one day suspension with the written reprimand.

No members of the public had any comments.

A motion to close the Public Hearing was made by Mr. Gray and seconded by Ms. Brue. The motion carried 5-0-0.

Mr. Sullivan noted that they learned a hard lesson and is willing to go with a letter of reprimand.

Atty. DeLuca stated that they have no prior incidents and is recommending a letter of reprimand be placed in their record.

A motion that the Board finds there was service of alcohol to an underage patron at Tasting's Wine Bar and Bistro on September 26, 2013 was made by Ms. Brue and seconded by Mr. Gray. The motion carried 5-0-0.

A motion that based on the finding, the Board issues a letter of reprimand to Tastings Wine Bar and Bistro for the violation on September 26, 2013 was made by Mr. Gray and seconded by Ms. Brue. The motion carried 3-2-0 with Mr. DeVellis and Ms. Coppola opposed.

### **Action Items**

Correspondence has been received from Library Director Jerry Cirillo informing the Board that a gift of \$20 has been received for the Library Gift Fund.

A motion to accept the gift of \$20 with gratitude from Thomas and Adele Corrigan of North Attleboro for the Library Gift Fund was made by Mr. Gray and seconded by Ms. Brue. The motion carried 5-0-0.

Police Chief Ed O'Leary notified the Board that a grant has been received in the amount of \$5,000 for efforts to prevent underage drinking.

A motion to accept the grant of \$5,000 for the Police Department to continue their efforts to prevent underage drinking with special thanks to Sgt. Noonan was made by Mr. Gray and seconded by Ms. Brue. The motion carried 5-0-0.

The Massachusetts Cultural Council has submitted a contract to transfer funds to the Foxboro Cultural Council in the amount of \$4,250. The Board needs to authorize the Town Manager to accept this contract.

A motion to authorize the Acting Town Manager to accept the funds from the Mass Cultural Council for the Foxboro Cultural Council was made by Mr. Gray and seconded by Ms. Brue. The motion carried 5-0-0.

An issue has been raised about parking of vehicles at the town hall overnight and on weekends. Last winter a car was hit in the lot by a DPW vehicle that was plowing the lot during a snowstorm. It resulted in a cost to the town and the owner of the vehicle. The Loss Control Committee would like to have a sign placed at Town Hall and the library prohibiting overnight parking and is requesting approval of the Board.

The Board would like to discuss this on a future agenda.

Ms. Coppola would also like to add a sign for No Stopping or Standing on North Street during stadium events.

### **Public Hearing – Alleged Liquor License Violation – Foxboro Country Club, 33 Walnut Street, Manager Stephen Champagne**

Mr. Gray and Mr. Cutler recused themselves from this hearing as they are members of the Country Club.

Ms. Brue read the Public Hearing notice.

Sgt. Noonan reviewed the facts of the case. On September 26, 2013 an underage operative went to the Country Club bar and asked for a beer. The bartender asked for his identification and served him the beer, the operative then paid for the beer.

Stephen Champagne stated that they do not dispute the charges and have no good explanation for the serving of the patron. They are diligent about training and all serving staff is TIPS certified yearly. They also have monthly meetings to review any upcoming outings and the staff was reminded the day before that compliance checks were going to happen. They have been in business for fifty years and this is the first violation. The bartender was terminated.

Mr. DeVellis stated that this happened at 6:00 in the evening, he would like to see a one day suspension.

Ms. Coppola would also like to see a suspension.

Mr. Sullivan stated that they try to be fair to all and he trusts it won't happen again.

This is a semi-private club that has no dress code in the clubhouse.

Ms. Brue asked if there was a sting at the stadium on September 26<sup>th</sup>. Sgt. Noonan stated that not all establishments were open that day. They usually cannot perform stings at the stadium due to the high cost of entry.

Atty. DeLuca recommends a letter of reprimand be placed in their record. He also noted that if the Board has a split vote, it would not pass, a 3-1 or unanimous vote is needed.

Mr. DeVellis noted that the manager has only been there for two years and this is not a good record to have one violation in two years.

There were no public comments.

A motion to close the Public Hearing was made by Ms. Brue and seconded by Mr. DeVellis. The motion carried 4-0-0.

A motion that the Board makes a finding that the Foxboro Country Club served an underage patron on September 26, 2013 was made by Ms. Brue and seconded by Mr. DeVellis. The motion carried 4-0-0.

A motion that a letter of reprimand be placed in the file of the Foxboro Country Club and that a one day suspension to be served in February 2014 be imposed was made by Mr. Sullivan and seconded by Mr. DeVellis. The motion carried 3-1-0 with Ms. Brue opposed.

### **Action Items**

The minutes of October 15, 2013 were reviewed.

A motion to approve the minutes of October 15, 2013 as written was made by Mr. Gray and seconded by Ms. Brue. The motion carried 5-0-0.

The minutes of September 17<sup>th</sup> and October 1<sup>st</sup> were previously approved and put on this agenda in error.



## **Review FY15 Revenue Forecast**

The Board met with Finance Director Randy Scollins, members of the School Committee and the Advisory Committee to review the revenue forecast for next year.

Mr. Scollins stated that he projects that there will be an increase of 4.3% or approximately \$1.87 million for the FY 15 budget. He reviewed the numbers that resulted in this increase, he stated that it is due to an increase in net taxation, net state aid, local receipts and other available funds such as free cash, ambulance receipts, overlay surplus as well as a reduction from the enterprise overhead allocation fund due to the inactive solid waste enterprise fund.

Bruce Gardner of the School Committee asked how this compared to last year. Mr. Scollins stated that the preliminary estimates were not this high last year at this time and they are not looking to make up for any shortfalls at this point.

Kate Adair of the School Committee asked how the new tax growth compared to last year. Mr. Scollins stated that it is still being certified but he is targeting \$500,000.

Mr. Gray asked if the town taxes below the 2 1/2 % limit. Mr. Scollins stated that the tax rate is 2 1/2% per year, but they were in a position to not tax to the limit this year but decided to do it to use the extra revenue for one time costs such as capital funds or long term liabilities.

Larry Thomas of the Advisory Committee asked if the stabilization fund will be above 5%. Mr. Scollins is not recommending that as there are policies that need to be revisited in regards to the stabilization funds.

Mr. DeVellis asked if level service/level funded budgets will be asked for. Mr. Scollins stated that there is a line item in the budget calendar for the new Town Manager to sit with all to review the budget.

Ms. Coppola asked about the increase to OPEB and roads. Mr. Scollins stated that capital items are reviewed later; this is the operating budget on the agenda tonight. There is still \$550,000 in the capital stabilization fund that cannot be moved without a vote of Town Meeting.

Ms. Brue asked if the 7% increase to health insurance costs is typical. Mr. Scollins stated that it should not exceed 7% but may be less.

The discussion will continue after the opening of the next Public Hearing.

## **Public Hearing – Application of 2013 MIAA High School Super Bowls**

Mr. Gray read the Public Hearing notice.

This hearing will continue after the budget discussion.

## **FY 15 Revenue Forecast (Continued)**

Mr. Scollins reviewed the net revenue increases projected for FY15. He projects a \$653,000 increase to fixed costs which would result in an estimated amount of \$45,073,655 to be available for budgets.

No town hall projects are included in any of these amounts. The next update will be after the budgets are received from the departments.

Mr. Cutler met with the School Superintendant and asked that a level service budget be prepared due to the transition to a new Town Manager. All non-school department heads also received this directive.

Mr. Gardner also asked if the Superintendant could be included in the Town Manager search committee.

### **Continued Public Hearing – Application of 2013 MIAA High School Super Bowls**

The Board met with Phil Buttafuccho of Gillette Stadium who explained that the MIAA will be having six state wide championship games for the first time due to the new playoff system introduced this year. They are expecting about 18,000 fans throughout the day, usually about 3,000 per game. There will be no tailgating allowed. The day will begin at 8:00 a.m. with the lots opening, the first game will be at 9:00 a.m. and the last one will conclude around 9:30 p.m.

Rich Pearson the Associate Director of the MIAA and Mike Ashapa of the Stadium Advisory Committee were also present. Mr. Ashapa stated that the committee voted on a positive recommendation for this event.

The Board members had no issues with the request.

It was noted that seating will be on one side of the stadium with schools on opposite ends and that chaperone meetings will take place in advance of the games to encourage students to be positive for the events.

No alcohol will be served.

Mr. Pearson asked about the surcharge for the event. This is not part of the agenda and will have to be discussed at a future meeting.

A motion to close the Public Hearing was made by Mr. Gray and seconded by Mr. Brue. The motion carried 5-0-0.

A motion to approve the license for the 2013 MIAA Super Bowl games of December 7, 2013 was made by Mr. Gray and seconded by Mr. DeVellis. The motion carried 5-0-0.

### **Charter for Town Manager Screening Committee**

Ms. Brue stated that the Board needs to appoint the members of the screening committee and give them a charge. The town profile has been posted on the website. A meeting is scheduled next week to introduce the members of the committee. This will be a public meeting.

A motion to accept the Town Manager Screening Committee Charge as written was made by Mr. Gray and seconded by Mr. DeVellis. The motion carried 5-0-0.

The appointees will be discussed at the next meeting.

The meeting was adjourned at 9:50 p.m.

Respectfully Submitted,

Diana Gray

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John R. Gray, Clerk